

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CLIO PHILLIPS,

Plaintiff,

-against-

LEONARD RUSS AND LINDA MYERS
RUSS D/B/A BAYBERRY CARE CENTER;
UNITED FOOD AND COMMERCIAL
WORKERS UNION,

Defendants.

23-CV-8283 (LTS)

ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff brings this action *pro se*. By order dated December 5, 2023, the Court directed Plaintiff to file an amended complaint within 60 days. (ECF 4.) By order dated February 6, 2024, the Court granted Plaintiff an additional 60-day extension. (ECF 6.) Because the Court did not receive an amended complaint, by order dated April 49, 2024, the Court dismissed the complaint for failure to state a claim on which relief may be granted and for lack of subject matter jurisdiction. (ECF 8.)

On May 30, 2024, the Court received a letter from Plaintiff in which she states that she filed an amended complaint with the Court's Pro Se Intake Unit on April 8, 2024, but that the amended complaint was not docketed. (ECF 10.) The Court has confirmed with the Clerk's Office that it is not in receipt of an amended complaint from Plaintiff, nor does it have a record of receiving an amended complaint from Plaintiff on April 8, 2024. The Court grants Plaintiff 30 days' leave to refile the amended complaint. If Plaintiff files an amended complaint, the Court will reopen this action and screen the amended complaint as required by the *in forma pauperis* statute, 28 U.S.C. § 1915(e)(2)(B). If Plaintiff does not file an amended complaint within the prescribed deadline, the action will remain closed.

CONCLUSION

The Court grants Plaintiff 30 days' leave to refile the amended complaint. If Plaintiff files an amended complaint, the Court will reopen this action and screen the amended complaint as required by the *in forma pauperis* statute, 28 U.S.C. § 1915(e)(2)(B). If Plaintiff does not file an amended complaint within the prescribed deadline, the action will remain closed.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: June 3, 2024
New York, New York

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
Chief United States District Judge